IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 4450 OF 2005

Shri Vimal Saraf & Ors ...Applicants

Versus

State of Maharashtra & Anr ...Respondents

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Mr. Shirish Gupte, Sr. Advocate i/b A.M. Sarogi Advocate for Applicants.

Mr. Y.S. Shinde, A.P.P. for State.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 25TH JULY, 2005

P. C.:-

1. Heard both sides.

2. The applicants have prayed for quashing of proceedings in Criminal Case No. 107/SW/2004 which is pending in the Court of learned Metropolitan Magistrate, 2nd Court, Mazgaon, Mumbai. In the said case, process has been issued against the applicants under Section 420 r.w. 34 of I.P.C. The learned advocate for the applicants submitted that the learned Magistrate committed an error in issuing process and the said process deserves to be set aside. If the process issued against the applicants is set aside, the proceedings in respect of the

applicants would come to an end.

3. For the reasons recorded in my order dated 13th June, 2005 passed in Criminal Writ Petition No.213 of 2005 and order dated 21st June, 2005 passed in Criminal Application No.550 of 2005, the applicants have an efficacious remedy of preferring revision against the order of Magistrate issuing process. Hence, in my opinion, it would be appropriate that the applicants prefer revision before the concerned Sessions Court against the order of the Magistrate issuing process.

4. Liberty is granted to the applicants to prefer revision before the concerned Sessions Court. The learned advocate for the applicants states that the necessary revision would be preferred within a period of five weeks from today. In view of this statement, the trial Court shall not proceed with the trial for a period of five weeks from today. The learned advocate for the respondent i.e. original complainant fairly states that no objection would be raised in respect of delay in filing revision before the learned Sessions Judge.

5. It is also prayed that the learned Magistrate has issued non bailable warrant against the applicants and the said N.B.W. be quashed. I am not inclined

to quash the N.B.W. as in my view, it would be appropriate that the applicants prefer an application before the Magistrate for setting aside the said N.B.W. In order to enable the applicants to take necessary steps for setting aside the N.B.W. before the Magistrate, the said N.B.W. are stayed for a period of five weeks from today.

6. On the necessary revision being preferred by the applicants before the concerned Sessions Court, the concerned Sessions Court shall dispose of the same on merits after hearing necessary parties.

7. Application is disposed of.

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